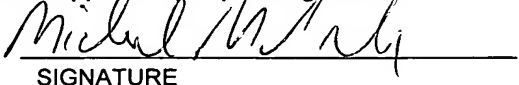


33 MAR 2006

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 059314-0701 (previously 039386-2252) <small>U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)</small> 10/525,743
INTERNATIONAL APPLICATION NO. PCT/US03/26988	INTERNATIONAL FILING DATE 08/26/2003	PRIORITY DATE CLAIMED 08/30/2002
TITLE OF INVENTION IMMUNE RESPONSE ASSOCIATED PROTEINS		
APPLICANT(S) FOR DO/EO/US Vicki ELLIOTT		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. 4. <input type="checkbox"/> The US has been elected (Article 31). 5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) <ul style="list-style-type: none"> <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). <input type="checkbox"/> has been communicated by the International Bureau. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US) 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ul style="list-style-type: none"> <input type="checkbox"/> is attached hereto. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) <ul style="list-style-type: none"> <input type="checkbox"/> are attached hereto (required only if not transmitted by the International Bureau). <input type="checkbox"/> have been communicated by the International Bureau. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). 		
Items 11 to 20 below concern other document(s) or information included:		
<ol style="list-style-type: none"> 11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input type="checkbox"/> A preliminary amendment. 14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76. 15. <input type="checkbox"/> A substitute specification. 16. <input type="checkbox"/> A power of attorney and/or change of address letter. 17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 – 1.825 18. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 20. <input checked="" type="checkbox"/> Other items or information: Renewed Petition under 37 CFR §1.497(d) (2 pgs.), including Statement by Inventors (1 pg.); Copy of Decision on Request (3 pgs.). 		

RECEIVED
 20 APR 2006
 Legal Staff
 International Division

U.S. APPLICATION NO. (If known, see 37 CFR. 1.5) 10/525,743		INTERNATIONAL APPLICATION NO. PCT/US03/26988		ATTORNEY'S DOCKET NUMBER 059314-0701	
The following fees have been submitted:					
21. <input type="checkbox"/>	Basic national fee		\$300	\$	0.00
22. <input type="checkbox"/>	Examination fee			\$	0.00
If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4)			\$100		
All other situations			\$200		
23. <input type="checkbox"/>	Search fee				
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority			\$100		
International Search Report prepared and provided to the Office			\$400		
All other situations			\$500	\$	0.00
TOTAL OF ABOVE 21, 22 and 23 =				\$	0.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$ for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
109 - 100 =	9 /50 =	1	x \$250.00	\$	0.00
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e))				\$	0.00
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total Claims	0 - 20 =	0	x \$ 50.00	\$	0.00
Independent Claims	0 - 3 =	0	x \$ 200.00	\$	0.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$ 360.00	\$	
TOTAL OF ABOVE CALCULATIONS =				\$	0.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				\$	0.00
SUBTOTAL =				\$	0.00
Processing fee of 130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	
TOTAL NATIONAL FEE =				\$	0.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). 40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$	0.00
				Amount to be refunded:	
				charged:	
<p>a. <input type="checkbox"/> A check in the amount of \$0.00 to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. <u>19-0741</u> in the amount of 0.00 to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>19-0741</u>. A duplicate copy of this sheet is enclosed.</p> <p>d. <input type="checkbox"/> Fees are to be charge to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p>					
SEND ALL CORRESPONDENCE TO:			 SIGNATURE Michele M. Simkin NAME 34,717 REGISTRATION NUMBER		
Foley & Lardner LLP Customer Number: 22428					



23 JAN 2006

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of
ELLIOTT et al.
Application No.: 10/525,743
PCT No.: PCT/US03/26988
Int. Filing Date: 26 August 2003
Priority Date: 30 August 2002
Attorney Docket No.: 059314-0701
For: IMMUNE RESPONSE ASSOCIATED
PROTEINS

DECISION ON REQUEST
UNDER 37 CFR 1.497(d)

This is a decision on applicants' Petition entitled "Change of Inventorship in Accordance with 37 CFR 1.497(d)", filed on 27 September 2005 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete all inventors except Vicki S. Elliott as inventors in the above referenced application.

BACKGROUND

On 28 February 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 11 August 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 27 September 2005, applicant filed a petition under 37 CFR 1.497(d) for correction of inventorship, to delete all inventors except Vicki S. Elliott. In addition to the \$130 petition fee, Petitioner provided the statements of inventors Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, and Reena Khare in support of the correction of inventorship under 37 CFR 1.497(d). A declaration executed by sole inventor Vicki S. Elliott was also provided.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added or deleted as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(I); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).

37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set

forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

The processing fee of \$130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), there is no indication that an Assignment of Patent Application by the inventors has occurred. Thus, Item (3) above is not applicable.

With respect to Item (1) above, the published International application named Vicki S. Elliott, Erika A. Lindquist, Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, and Reena Khare as inventors Applicants provided statements signed by Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, Reena Khare as joint inventors. Each of these respective inventors stated: "I am being deleted as an inventor from the above-captioned application due to amendment of the application upon entry to the U.S. National Stage under 35 U.S.C. 371. Therefore, the change in the inventive entity from the International Application to the U.S. National Stage application occurred without deceptive intention". This statement satisfies item (1) of 37 CFR 1.497(d) with respect to these inventors.

The published International application named Vicki S. Elliott and Erika A. Lindquist as co-inventors. The petition was accompanied by a declaration executed by Ms. Elliott. However, the petition was not accompanied by a statement from Erika A. Lindquist requesting deletion of her inventorship. Moreover, there is no communication from the International Bureau (that is, Form IB/306) indicating that Ms. Lindquist was removed as an applicant/inventor under PCT Rule 92*bis* during the international phase.

Accordingly, applicant has met all of the requirements to remove Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, and Reena Khare as co-inventors in the above-identified international application. However, Ms. Lindquist remains an inventor for the above referenced application and therefore, a declaration or oath, in compliance with 37 CFR 1.497(a) and (b) is required to fulfill the requirements of 35 U.S.C. 371(c). In the alternative, a renewed petition is necessary, providing either the Form IB/306 noting the removal of Ms. Lindquist as an inventor or a statement of Ms. Lindquist requesting her deletion as an inventor.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to all inventors except Vicki S. Elliott is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.497(d) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.497(d)." No petition

fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

The renewed petition should provide either: a copy of the Form IB/306 regarding the International Bureau's removal of Ms. Lindquist as an inventor or the appropriate statement from Ms. Lindquist requesting her deletion as a named inventor. In the alternative, a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), and executed by applicant/inventor Erika A. Lindquist, is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration.

Telephone: (571)272-3286
Facsimile: (571)273-0459